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STATE FOR EAP/MLS AND EB/TPP/BTA/ANA
STAE PASS USTR DAVID BISBEE

COMMERCE FOR 4431/MAC/A/OPB/VLC/HPPHO
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SUBJECT: LETTER FROM MINISTRE OF TRADE TUYEN RE TERM OF COPYRIGHT
PROTECTION

SENSITIVE - DO NOT POST ON INTERNET

¶1. Summay: Embassy received the letter below, dated October 2, 2006, from Minister of Trade Truong Dinh Tuyen to USTR Susan Schwab. The letter confirms that Vietnam will grant U.S. nationals at least 75 years of copyright protection in accordance with the provisions of our Bilateral Trade Agreement. End Summary.

¶2. Begin text:

The Honorable Susan C. Schwab
U.S. Trade Representative
Washington, DC 20508

Dear Ambassador Schwab,

During the course of discussions on Vietnam's accession to the World Trade Organization (WTO), the U.S. delegation has raised the issue of the term of protection for works under copyright that Vietnam will provide to U.S. nationals after Vietnam becomes a WTO member. In those negotiations, the Government of Vietnam has taken the position that Article 4(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights permits Members to apply different terms of protection for works based on international agreements and the principle of reciprocity.

The Government of Vietnam is pleased to confirm that it will continue to provide to the nationals of the United States at least seventy-five (75) years of copyright protection for works as provided for in Article 4.4 of the United States -Vietnam Bilateral Trade Agreement (BTA). In the BTA, both Parties agreed to provide this minimum term of protection. Further, as provided in Article 5.3 of the Intellectual Property Law (2005), where the provisions such of an international treaty (such as the BTA) contravene the Intellectual Property Law, the provisions of the international treaty shall apply. In the event U.S. nationals experience difficulty in obtaining recognition and enforcement of a 75- year term of copyright protection for works, Vietnam will undertake to clarify this obligation, through appropriate legal instruments.

I hope that this clarifies the situation regarding the term of protection that Vietnam will provide to U.S. nationals and that nationals of Vietnam receive in the United States. As this is the issue of bilateral commitment, I suggest that this provision not be granted to other members of the WTO.

Sincerely,

Truong Dinh Tuyen
Minister of Trade
The Socialist Republic of Vietnam
End text.
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